



Amendment Application

Community Development

4800 Ashford Dunwoody Road | Dunwoody, GA 30338

Phone: (678) 382-6800 | Fax: (770) 396-4828

The requirements of this application apply to comprehensive plan land use map amendments, zoning map amendments, zoning ordinance text amendments and major amendments to one or more conditions attached to previously approved zoning map amendments. If an applicant needs to further relax the dimensional standards of the Zoning/Land Development Ordinances for a specific property for the purpose of construction, s/he can request a variance to the text of the Zoning Ordinance. Such a request might seek to modify the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading or other regulations, but these applications will not occur concurrently, and the approval of one does not indemnify the approval of the other. The City Council, following recommendation by the Planning Commission, shall determine whether the proposed amendment meets the applicable requirements.

No application for an amendment to the land use plan or amendment to the official zoning map or a major amendment/modification to a condition of zoning shall be filed and/or accepted for filing until such time as the applicant has conducted an applicant-initiated meeting in accordance with Chapter 27, Section 27-306. The purpose of the applicant-initiated meeting requirements is to help educate applicants for development approvals and neighbors about one another's interests, to attempt to resolve issues in a manner that respects those interests and to identify unresolved issues. Written notice is required for all applicant-initiated meetings and will be sent via first class mail to the owners of all residentially zoned property within 1,000 feet of the boundaries of the subject property, as those property owners are listed on the tax records of DeKalb County. The notices must be mailed at least 20 days before the date of the applicant-initiated meeting. Written notices must indicate the nature of the application and the date, time, place and purpose of the meeting. All meetings will be held at a convenient time and location within the City of Dunwoody. At least seven days before but not more than 30 days before the date of the applicant-initiated meeting, notice of the meeting must be published in the official legal organ of the city. A notice of the meeting shall be sent to the city planner. If there is no residential zoning within 500 feet of the property under consideration, the applicant is exempt from neighbor communication summary requirements. A summary report containing the following information is required to be submitted with an application for an amendment at the time of application submittal:

1. Efforts to notify neighbors about the proposal (how and when notification occurred, and who was notified);
2. Meeting location, date and time;
3. Who was involved in the discussions;
4. Suggestions and concerns raised by neighbors; and
5. What specific changes to the proposal were considered and/or made as a result of the meeting.

To initiate a request for an amendment within the City of Dunwoody, an applicant must also attend a preapplication conference (Pre-Application Review) with key City personnel. Those meetings are scheduled as-needed, but the deadline for having such a meeting is set to ensure the appropriate time for staff review and communication prior to the special land use application deadline. Those meeting deadlines may be modified based on the scope of the project and proportionate review time. The purpose of the PreApplication Review Process is to establish an expectation on the part of both staff and the applicant for the amendment process. At the meeting(s), the applicant should display any preliminary site plans and/or other illustrative documents as necessary. The applicant will then detail an overview of their proposed application and their reasoning for why the application is necessary. Staff can then inform the applicant of the City's process to effect the change proposed and offer a preliminary analysis of the feasibility of the proposal, including ways upon which the proposal may need improvements or revisions. Following the Pre-Application Review Process, applicants can submit their application and required supplemental materials (detailed in the following checklist) to the Community Development Department, located at 4800 Ashford Dunwoody Road, Dunwoody, GA 30338. **The deadline to be placed on the next month's Planning Commission agenda is the first Tuesday of the month by 3 PM.**

Rezoning Application Checklist

Community Development

4800 Ashford Dunwoody Road | Dunwoody, GA 30338

Phone: (678) 382-6800 | Fax: (770) 396-4828

- ☐ Neighbor Communications Summary Report (or site plan indicating no residential zoning within 500 feet of the property).
- ☐ Completed application with all applicable information.
- ☐ Electronic version of the entirety of your application submittal, saved as a single PDF
- ☐ Signed and notarized affidavits of all owners. Use application and attached sheet, as necessary.
- ☐ Signed and notarized affidavits of all applicants. Use application and attached sheet, as necessary.
- ☐ Complete and detailed site plan of the proposed use prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia, showing the following, as relevant:
 - a. All buildings and structures proposed to be constructed and their location on the property;
 - b. Height of proposed building(s);
 - c. Proposed use of each portion of each building;
 - d. All driveways, parking areas, and loading areas;
 - e. Location of all trash and garbage disposal facilities;
 - f. Setback and buffer zones required in the district in which such use is proposed to be located;
 - g. Landscaping plan for parking areas, streetscaping, common areas, and transitional buffers;
 - h. Written legal description which includes a narrative of the metes and bounds of the property matching the site plan; and
 - i. Building elevations or renderings that identify proposed materials.
- ☐ Survey of existing site conditions, signed and sealed by a surveyor or engineer licensed in the State of Georgia.
- ☐ Please respond to the following criteria based on the nature of your request, as required by state law and City of Dunwoody Zoning Ordinance (use additional pages where necessary):
- ☐ **Comprehensive Plan Land Use Map Amendments**
 - a. Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;
 - b. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;
 - c. Whether the proposed land use change will result in uses that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
 - d. Whether the amendment is consistent with the written policies in the comprehensive plan text;
 - e. Whether there are environmental impacts or consequences resulting from the proposed change;
 - f. Whether there are impacts on properties in an adjoining governmental jurisdiction in cases of proposed changes near city boundary lines;
 - g. Whether there are other existing or changing conditions affecting the use and development of the affected land areas that support either approval or denial of the proposed land use change; and

- h. Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

☐ **Zoning Map Amendments**

- a. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;
- b. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;
- c. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- d. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- e. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;
- f. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and
- g. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The following items may be required:

- ☐ Environmental Site Analysis Form
- ☐ Traffic Impact Study
- ☐ Development of Regional Impact Review
- ☐ Environmental Impact Report
- ☐ Overall Development Plan (Planned Developments)

AMENDMENT APPLICATION



Community Development

4800 Ashford Dunwoody Road | Dunwoody, GA 30338

Phone: (678) 382-6800 | Fax: (770) 396-4828

* Applicant Information:

| | | | |
|---|---|------|--|
| Company Name: | JSJ Perimeter, LLC c/o The Galloway Law Group | | |
| Contact Name: | Laurel David | | |
| Address: | 4062 Peachtree Rd., NE, Suite A 330, Atlanta GA 30319 | | |
| Phone: | 404-965-3669 | Fax: | |
| Email: | laurel@glawgp.com | | |
| Pre-application conference date (required): | Sept 22 | | |

* Owner Information: ☒ Check here if same as applicant

| | | | |
|------------------|--|------|--|
| Owner's Name: | | | |
| Owner's Address: | | | |
| Phone: | | Fax: | |
| Email: | | | |

* Property Information:

| | | | |
|----------------------------------|---|------------|---------------------------|
| Property Address: | 84, 130 and 140 Perimeter Center East, Dunwoody, GA 30346 | Parcel ID: | 18 347 01 013; -021; -028 |
| Current Zoning Classification: | C-1-c | | |
| Requested Zoning Classification: | PC-2 | | |

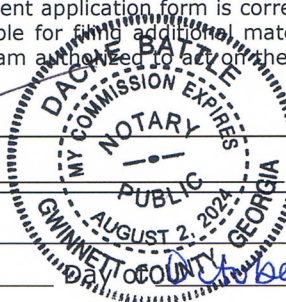
* Applicant Affidavit:

I hereby certify that to the best of my knowledge, this amendment application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance. I certify that I, the applicant (if different), am authorized to act on the owner's behalf, pursuant to this application and associated actions.

| | | | | |
|------------------------|--------------------|--|-------|--|
| Applicant's Name: | JSJ Perimeter, LLC | | | |
| Applicant's Signature: | | | Date: | |

* Notary:

| | | | | | |
|--|--------------|-----|---------|------|----|
| Sworn to and subscribed before me this | 5 | day | October | , 20 | 20 |
| Notary Public: | Dache Battle | | | | |
| Signature: | | | | | |
| My Commission Expires: | 08/02/24 | | | | |



[illegible]

**LETTER OF INTENT APPLICATION FOR REZONING
CITY OF DUNWOODY, GEORGIA**

JSJ Perimeter, LLC (the “Applicant” and Owner) requests a rezoning of property located at 84, 130, and 140 Perimeter Center East (Parcel Identification Numbers 18 18 347 01 013; 18 347 01 021; 18 347 01 028)(collectively known as the “Property”). The Property is currently zoned C-1 and is conditioned to a site plan showing a development consisting of a 12-story, 160-room hotel and two additional multi-story buildings containing 40,000 square feet of retail, restaurant and commercial uses. (See Dunwoody zoning case number MA 19-02).

The Applicant proposes to rezone the Property to PC-2 in accordance with the Perimeter Center District Regulating Map in order to replace the hotel with a multi-family rental building containing a maximum of 225 units that will be age-restricted to persons 55 years and older as defined by the Fair Housing Act. Like the previous approval, the development will also include approximately 43,140 square feet of commercial uses, including but not limited to restaurants and retail, patio and rooftop terrace seating and a multi-story parking deck. The development will incorporate the streetscapes on Ashford Dunwoody and Perimeter Center Parkway similar to that approved in MA 19-02. The Applicant has also submitted a Special Land Use Permit (SLUP) request concurrently with this application to allow the age restricted rental and to request variances for setbacks and maximum impervious coverage required by the PC-2 zoning in order to provide the setbacks and impervious coverage similar to that previously approved by MA 19-02. Other than changing the hotel use to age restricted rental housing, the development is similar to what was approved in MA 19-02. The SLUPs are needed due to the difference in zoning requirements between C-1 and PC-2.

The Applicant respectfully submits this request, and asks that the City Council approve the Rezoning as the proposal is consistent with the following standards and factors set forth in Section 27-335 of the Zoning Ordinance of the City of Dunwoody:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;

The Property is in the Perimeter Center Character Area, which is described as “a visitor friendly, livable regional center with first-class office, retail, entertainment, hotels, and high-end restaurants in a pedestrian and bicycle-oriented environment.” Comp. Plan at Page 25. The Perimeter Center Character Area aims to create a “true live-work environment” by “creating

mixed-use, transit-oriented development within walking distance of public transit stations.” Comp. Plan at Page 25. The Applicant’s proposal is attuned to this vision for the Perimeter Center area, as the Applicant proposes a residential use and the Property is just a ten (10) to fifteen (15) minute walk from the Dunwoody MARTA station. Providing a mixed-use development with flexible commercial space at this location will not only allow the Applicant to respond to market demands for restaurant and retail uses, but will also foster small business creation and growth, one of the priority needs listed in the Comprehensive Plan. Comp. Plan at Page 36.

The City’s Comprehensive Plan “aims to make Dunwoody a ‘lifelong community:’ that is, a place individuals can live throughout their lifetime and which provides a full range of options for residents, including: Encourage the integration of senior appropriate housing, both active adult and assisted living, into the fabric of the community, thus offering multi-generational or lifelong housing opportunities.” Comp. Plan at 11. The vision and intent of the Perimeter Center Character Area is to “Achieve a lifelong-community for residents who can age in place with safe access to medical, recreational and other necessary services.” Comp. Plan at 26. The Applicant’s proposal will provide needed housing options to allow senior residents to downsize but stay within the community, near the services available in the immediate area. Therefore, the approval of the Applicant’s proposal will achieve the City’s objectives of a Lifelong Community.

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;

The Applicant proposes to rezone the Property to PC-2 in accordance with the Perimeter Center District Regulating Map. Other parcels in the vicinity are zoned to the C-1, O-I and OCR districts and are densely with commercial, office and multi-family residential uses. The Property is situated opposite Perimeter Mall and near both the Dunwoody MARTA station and I-285. It is also within walking distance of dense office, residential, restaurants, and retail and other commercial uses. This Rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby properties.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The Property was originally rezoned in 2008 to fit a specific market concept presented by a national hotel chain that combined a hotel with a large fitness center. The 2008 zoning

conditions were modified by MA 19-02 to allow a hotel and two multi-story commercial buildings. Since that time, the Covid-19 pandemic has altered market demand, particularly by reducing the demand for hotel uses. The Applicant's request, if granted, would allow reasonable economic use of the Property by providing age restricted residential uses to conform with the objectives of a Lifelong Community and more flexibility to meet current market conditions.

4. Whether the zoning proposal would adversely affect the existing use or usability of adjacent or nearby property;

The commercial uses proposed are allowed under the PC-2 District zoning classification. Age restricted rental housing is a permitted use, but only with a SLUP. This change would not affect the existing use or usability of adjacent or nearby property. The proposed change is in keeping with the policy objectives of the Perimeter Center District by proposing a mix of uses and maintaining improved modes of travel through streetscape improvements and a new road connection to the property to the south.

5. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;

The surrounding area has been densely developed for many years. As mentioned above, the Applicant proposes uses that are included in the Lifelong Community objectives recommended for the Perimeter Center District.

6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archeological resources;

The Applicant is unaware of any historic buildings, sites, districts, or archeological resources that this zoning proposal would adversely affect.

7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposal is not expected to result in a use that would excessively burden existing streets, transportation facilities, utilities or schools. The proposed age-restricted housing is unlikely to have many school age children and will not impact the City's school system. While existing infrastructure is sufficient to meet the increases in usage that will result from the development, the proposed development will increase the number of car trips to the Property. As a result, the Applicant has agreed to install a new road connection to the southern property boundary for a future connection by the adjacent property owner.

Because this Rezoning proposal meets all the standards and factors set forth in Section 27-335 of the Zoning Ordinance of the City of Dunwoody, the Applicant respectfully asks that the City Council grant the Rezoning as requested by the Applicant above.

Sincerely,

THE GALLOWAY LAW GROUP, LLC



Laurel David
Attorney for the Applicant

4062 Peachtree Rd., Suite A330
Atlanta, Georgia 30319
(404) 965-3669

**LETTER OF INTENT FOR
SPECIAL LAND USE PERMIT APPLICATION
CITY OF DUNWOODY, GEORGIA**

JSJ Perimeter, LLC (the “Applicant” and Owner) requests Special Land Use Permits (SLUPs) for property located at 84, 130, and 140 Perimeter Center East (Parcel Identification Numbers 18 18 347 01 013; 18 347 01 021; 18 347 01 028)(collectively known as the “Property”). The Property is zoned C-1 and is conditioned to a site plan showing a development consisting of a 12-story, 160-room hotel and two additional buildings – one one-story and one two-story - with approximately 40,000 square feet of retail, restaurant and commercial uses. (See Dunwoody zoning case number MA 19-02). The Property is currently occupied by a vacant bank building.

The Applicant has filed a rezoning application concurrently with this application to rezone the Property to PC-2 in accordance with the Perimeter Center District Regulating Map in order to be able to replace the hotel with a multi-family rental building containing a maximum of 225 units. Residents of the multi-family building will be age-restricted to persons 55 years and older as defined by the Fair Housing Act. Other than changing the hotel use to age restricted rental housing, the development is similar to what was approved in MA 19-02. The proposed development will also include approximately 43,140 square feet of commercial uses, including but not limited to restaurants and retail, patio and rooftop terrace seating and a multi-story parking deck. The development will incorporate the streetscapes on Ashford Dunwoody and Perimeter Center Parkway similar to that approved in MA 19-02.

The residential and commercial uses will be included in the same building. As a result, the buildings on the site are all designated as Shopfront Buildings and the requirements for that building type have been applied accordingly. As a result, SLUPs are needed due to the difference in zoning requirements between C-1 and PC-2, Shopfront Buildings, as follows:

1. To allow an exception to Section 27-104(c), Figure 27-104-3, for an increase in the maximum impervious coverage from 65% (or 75% with semi-pervious cover) to a total of 85% coverage of both impervious and semi-pervious coverage (see exhibit attached). The total maximum impervious/semi-impervious lot coverage allowed when MA 19-02 was approved was 86%, per variances approved 8/12/2008,

Application No. A-08-14932. The lot coverage included in the MA 19-02 approval was 83.7%.

2. To allow residential use of age-restricted multi-family housing. Section 27-104(f)(2).
3. To allow an exception to Section 27-105(b)(2) to reduce the required interior side yard setback from 15 feet to 0 feet and to reduce the rear yard setback of 30 feet to 10 feet. The setbacks allowed when MA 19-02 was approved were zero for side and rear yards, per variances approved 8/12/2008, Application No. A-08-14932. The setbacks included in the MA 19-02 approval were zero feet for the interior side yard and 8 feet for the rear yard.
4. To allow and exception to Section 27-105(b)(2) to reduce the minimum floor-to-floor height required at the ground level from 14 feet for portions of the multi-family building that do not contain lobby or amenity spaces. The need for this SLUP is necessary to allow residential uses on the ground floor of a mixed-use Shopfront Building to activate the streetscape.
5. To allow an exception to Section 27-105(b)(2) for residential uses at the ground floor level in multi-family building that will not be service or lobbies for lodging. The need for this SLUP is necessary to allow residential uses on the ground floor of a mixed-use Shopfront Building to activate the streetscape.

The Applicant respectfully submits this request, and asks that the City Council approve the SLUPs as the proposal is consistent with the following standards and factors set forth in Section 27-359(b) of the Zoning Ordinance of the City of Dunwoody:

1. Whether the major exception request, if granted, will result in development that is inconsistent with the stated intent of the regulations;

Section 27-103 states the intent of the Perimeter Center (PC) district regulations is to promote the same purposes identified for the Perimeter Center Overlay. Specifically, the intent is “to recognize and foster the transformation of Perimeter Center into a pedestrian-friendly, livable center that ensures long term economic, social, and environmental sustainability.” Section 27-98(a)(2).

The Applicant’s proposal will provide residential uses for persons aged 55 and older within walking distance of the multitude of commercial uses in Perimeter Center. In addition to

containing compatible commercial, restaurant and retail uses on-site, it will be within walking distance of dense office, residential, and restaurant, retail and other commercial uses. The Applicant proposes to improve the streetscape on the Property to transform it to a pedestrian-friendly livable center in its own right, as well as being weaved into the fabric of the Perimeter Center livable center. In addition, the pedestrian and bike connection to the adjacent property to the south will further enhance the walkability of the Property.

The Furthermore, the City's Comprehensive Plan "aims to make Dunwoody a "lifelong community:" that is, a place individuals can live throughout their lifetime and which provides a full range of options for residents, including: Encourage the integration of senior appropriate housing, both active adult and assisted living, into the fabric of the community, thus offering multi-generational or lifelong housing opportunities." Comp. Plan at 11. Accordingly, the vision and intent of the Perimeter Center Character Area is to "Achieve a lifelong-community for residents who can age in place with safe access to medical, recreational and other necessary services." Comp. Plan at 26. Approval of the Applicant's proposal will achieve these objectives.

(2) Whether the major exception request, if granted, will result in development that is in keeping with the overall character of the surrounding area; and

The Applicant proposes to rezone the Property to PC-2 in accordance with the Perimeter Center District Regulating Map. Other parcels in the vicinity are zoned to the C-1, O-I and OCR districts and are densely with commercial, office and multi-family residential uses. The Property is situated opposite Perimeter Mall and near both the Dunwoody MARTA station and I-285. It is also within walking distance of dense office, residential, and restaurant, retail and other commercial uses. The Property is in the Perimeter Center Character Area, which is described as "a visitor friendly, livable regional center with first-class office, retail, entertainment, hotels, and high-end restaurants in a pedestrian and bicycle-oriented environment." Comp. Plan at Page 25. The Perimeter Center Character Area aims to create a "true live-work environment" by "creating mixed-use, transit-oriented development within walking distance of public transit stations." Comp. Plan at Page 25.

The Applicant's proposal is attuned to this vision for the Perimeter Center area, as the Applicant proposes a residential use in a mixed use development just a ten (10) to fifteen (15) minute walk from the Dunwoody MARTA station. Providing a mixed-use development with flexible commercial space at this location will not only allow the Applicant to respond to market

demands for restaurant and retail uses, but will also foster small business creation and growth, one of the priority needs listed in the Comprehensive Plan. Comp. Plan at Page 36. Granting of the exceptions will result in a development that fosters the intent of the Perimeter Center District regulations and, therefore, in keeping with the overall character of the surrounding area.

The special exceptions requested for setbacks and lot coverage are in keeping with the overall character of the surrounding area. The proposal will be enhanced with landscaping and outdoor patio seating for the commercial uses, rooftop terraces with container gardens (that will be open to the public) and outdoor amenity areas for the multifamily use. The exceptions requested for floor-to-floor height and residential uses on the ground floor will activate the streetscape and help provide a transition to adjacent residential uses.

(3) Whether any negative impacts resulting from the granting of the major exception will be mitigated to the maximum practical extent.

The commercial uses proposed are allowed under the PC-2 District zoning classification. Age restricted rental housing is a permitted use, but only with a SLUP. This change would not affect the existing use or usability of adjacent or nearby property. The proposed change is in keeping with the policy objectives of the Perimeter Center District by proposing a mix of uses and maintaining improved modes of travel through streetscape improvements and a new road connection to the property to the south.

The special exceptions requested for setbacks and lot coverage will be mitigated with landscaping and outdoor patio seating for the commercial uses, rooftop terraces with container gardens (that will be open to the public) and outdoor amenity areas for the multifamily use. The exceptions requested for floor-to-floor height and residential uses on the ground floor are to allow residential uses at the ground floor level to be occupied by residents on the western side of the building, adjacent to multi-family uses. This would not only activate the streetscape, but help provide a transition to adjacent residential uses.

The proposal is not expected to result in a use that would excessively burden existing streets, transportation facilities, utilities or schools. The proposed age-restricted housing is unlikely to have many school age children and will not impact the City's school system. While existing infrastructure is sufficient to meet the increases in usage that will result from the development, the proposed development will increase the number of car trips to the Property. As

a result, the Applicant has agreed to install a new road connection to the southern property boundary for a future connection by the adjacent property owner.

Because this SLUPs requested meet all the standards and factors set forth in Section 27-359(b) of the Zoning Ordinance of the City of Dunwoody, the Applicant respectfully asks that the City Council grant the SLUPs as requested by the Applicant above.

Sincerely,

THE GALLOWAY LAW GROUP, LLC



Laurel David
Attorney for the Applicant

4062 Peachtree Rd., Suite A330
Atlanta, Georgia 30319
(404) 965-3669

CONSTITUTIONAL OBJECTIONS
APPLICATION FOR REZONING MODIFICATION
CITY OF DUNWOODY, GEORGIA

Georgia Law and the procedures of City of Dunwoody require us to raise Federal and State Constitutional objections during the Rezoning Modification application process. While the Owner/Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Owner/Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Zoning Ordinance of City of Dunwoody, Georgia, as applied to the Property, that would result in a denial of the Rezoning Modification as requested, are, or would be, unconstitutional in that they would destroy property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Code of City of Dunwoody or the City of Dunwoody Zoning Ordinance to the Property which restricts its use to any use in a manner other than that requested is unconstitutional, illegal and null and void because such an application constitutes a taking of property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States because such an application denies the Owner/Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would also constitute an arbitrary and capricious act by the City Council of City of Dunwoody without any rational basis therefore, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal to grant the Rezoning Modification as requested would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner/Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the Rezoning Modification subject to conditions that are different from the conditions requested, to the extent such different conditions would have the effect of further restricting the utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act and would

likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

In addition, this constitutes formal written notice to City of Dunwoody, pursuant to O.C.G.A. § 36-33-5, that the Owner/Applicant plans to seek to recover all damages that it sustains or suffers as a result of the denial of this Application and/or the unconstitutional zoning of the Property by City of Dunwoody. Such damages may include, but are not necessarily limited to, damages related to the diminution in the value of the Property, attorneys' fees and expenses of litigation.

Accordingly, the Owner/Applicant respectfully requests that the City Council of the City of Dunwoody grant the Rezoning Modification as requested.

THE GALLOWAY LAW GROUP, LLC

A handwritten signature in blue ink that reads "Laurel David". The signature is written in a cursive, flowing style.

Laurel David
Attorney for the Applicant

4062 Peachtree Rd., Suite A330
Atlanta, Georgia 30319
(404) 965-3669

TRACT 1 PROPERTY DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 347, 18th District, DeKalb County, Georgia and being more particularly described as follows:

COMMENCING at the intersection of the easterly Right-of-Way Line of Ashford Dunwoody Road (having an apparent 120' Right of Way width) and the southerly Right-of-Way Line of Perimeter Center East (having an apparent variable Right of Way width); thence, leaving the said point of commencement as thus established and running with the aforesaid Right-of-Way Line of Perimeter Center East 89.42 feet along the arc of a curve deflecting to the right, having a radius of 70.00 feet and a chord bearing and distance of North 57°28'01" East, 83.46 feet to a point; thence, 170.90 feet along the arc of a curve deflecting to the left, having a radius of 595.95 feet and a chord bearing and distance of North 85°53'52" East, 170.31 feet to a PK Nail Found; thence, North 77°07'17" East, 10.35 feet to a PK Nail Found; thence, North 76°37'17" East, 148.94 feet to a point and the POINT OF BEGINNING;

Thence, from said POINT OF BEGINNING as thus established and continuing with the aforesaid Right-of-Way Line of Perimeter Center East

1. North 76°37'17" East, 54.41 feet to a point; thence,
2. 76.24 feet along the arc of a curve deflecting to the right, having a radius of 454.47 feet and a chord bearing and distance of North 81°25'47" East, 76.15 feet to a point; thence, leaving the aforesaid Right-of-Way Line of Perimeter Center East and running with property now or formerly owned by Bell Fund V Perimeter, LLC, per Deed Book 25669, Page 518, recorded among the Land Records of DeKalb County, Georgia
3. South 00°30'14" West, 283.88 feet to a 1/2 inch rebar found; thence, leaving the aforesaid property of Bell Fund V Perimeter, LLC and running with property now or formerly owned by Hines Atlanta, LTD, per Deed Book 9254, Page 771, aforesaid records
4. North 89°02'06" West, 130.08 feet to a 1/2 inch rebar found; thence, leaving the aforesaid property of Hines Atlanta, LTD and running with Tract 2 now or formerly owned by DJ Perimeter, LLC per Deed Book 27180 Page 774 aforesaid records
5. North 00°57'41" East, 257.78 feet to the POINT OF BEGINNING, containing 35,192 square feet or 0.8079 acres of land, more or less.

Property is subject to all easements and rights of way recorded and unrecorded.

TRACT 2 PROPERTY DESCRIPTION

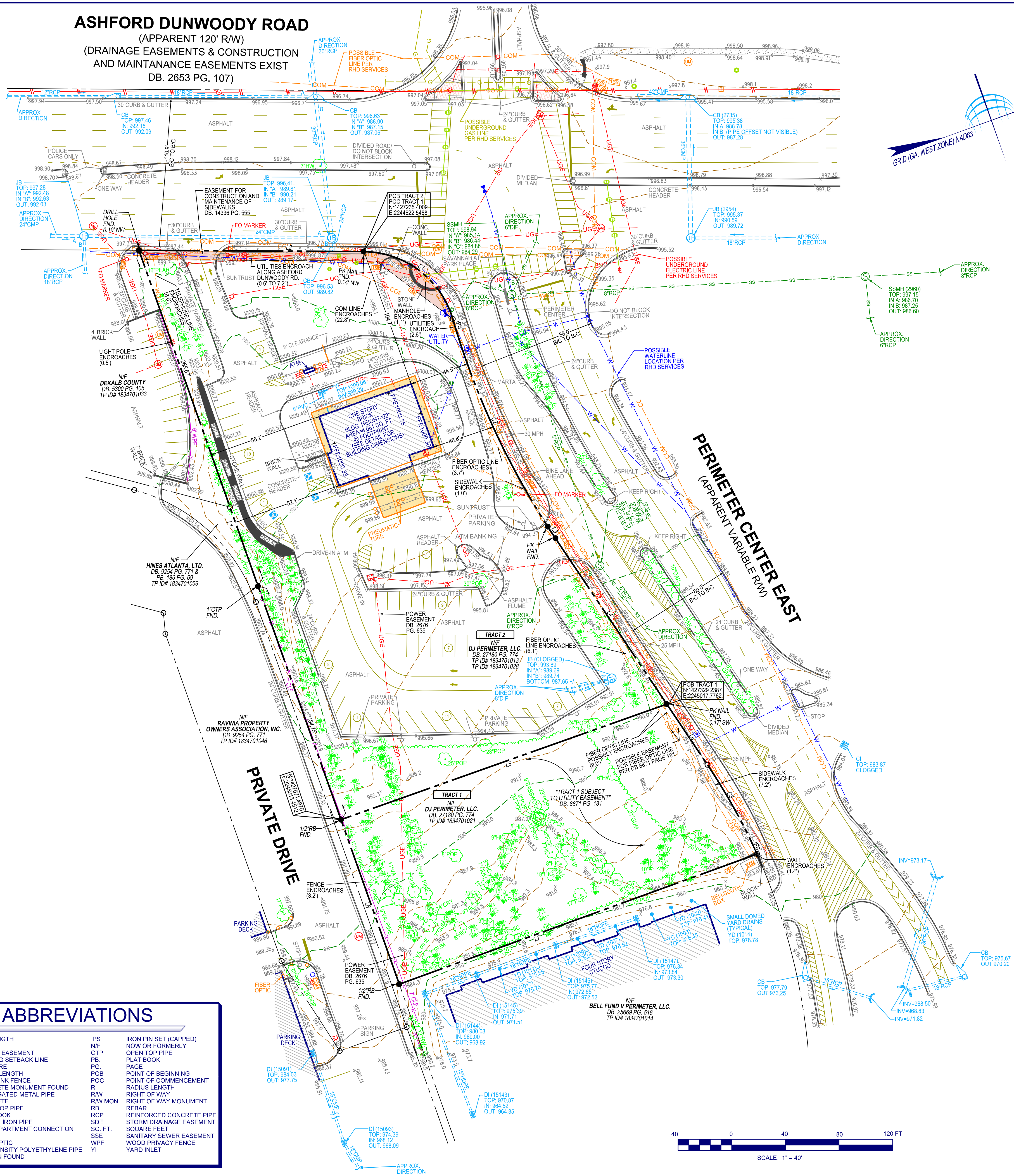
All that tract or parcel of land lying and being in Land Lot 347, 18th District, DeKalb County, Georgia and being more particularly described as follows:

BEGINNING at the intersection of the easterly Right-of-Way Line of Ashford Dunwoody Road (having an apparent 120' Right-of-Way width) and the southerly Right-Of-Way Line of Perimeter Center East (having an apparent variable Right-of-Way width); thence, leaving the said POINT OF BEGINNING as thus established and running with the aforesaid Right-of-Way Line of Perimeter Center East

1. 89.42 feet along the arc of a curve deflecting to the right, having a radius of 70.00 feet and a chord bearing and distance of North 57°28'01" East, 83.46 feet to a point; thence,
2. 170.90 feet along the arc of a curve deflecting to the left, having a radius of 595.95 feet and a chord bearing and distance of North 85°53'52" East, 170.31 feet to a PK Nail Found; thence,
3. North 77°07'17" East, 10.35 feet to a PK Nail Found; thence,
4. North 76°37'17" East, 148.94 feet to a point; thence, leaving the aforesaid Right-of Way Line of Perimeter Center East and running with Tract 1, now or formerly owned by DJ Perimeter, LLC, per Deed Book 27180 Page 774, among the Land Records of DeKalb County, Georgia
5. South 00°57'41" West, 257.78 feet to a ½ inch rebar found; thence, leaving the aforesaid property of RB 84 PC, LLC and running with property now or formerly owned by Hines Atlanta, LTD. Per Deed Book 9254, Page 771 aforesaid and property now or formerly owned by DeKalb County, Georgia per Deed Book 5300, Page 105, aforesaid records
6. North 89°02'06" West, 450.42 feet to a point on the aforesaid Right-of-Way of Ashford Dunwoody Road; thence, leaving the aforesaid property of DeKalb County, Georgia and running with the said Right-of-Way Line of Ashford Dunwoody Road
7. North 20°49'21" East, 167.24 feet to the POINT OF BEGINNING, containing 89,627 square feet or 2.0575 acres of land, more or less

Property is subject to all easements and rights of way recorded and unrecorded.

ASHFORD DUNWOODY ROAD
(APPARENT 120' R/W)
(DRAINAGE EASEMENTS & CONSTRUCTION
AND MAINTENANCE EASEMENTS EXIST
DB. 2653 PG. 107)



TREE LEGEND
(ABBREVIATIONS)

| | | | | |
|----------------------|---------------|-------------------------|-------------|-------------------|
| DECIDUOUS (TREE) | BIR BCH | BIRCH BEECH | HLV HW | HOLLY HARDWOOD |
| CONIFEROUS (TREE) | CM CHY | CRAPPE MYRTLE CHERRY | MAG MAP | MAGNOLIA MAPLE |
| | CYP FIR | CYPRESS FIR | OAK ORN | OAK ORNAMENTAL |
| | GINGKO GUM | GINGKO SWEET GUM | PEAR POP | PEAR POPLAR |
| | HIC | HICKORY | SYC | SYCAMORE |

AREA TABLE

| | |
|------------|------------------------------|
| TRACT 1 | 89,627 SQ.FT. OR 2.0575 AC. |
| TRACT 2 | 35,192 SQ.FT. OR 0.8079 AC. |
| TOTAL AREA | 124,819 SQ.FT. OR 2.8654 AC. |

LEGEND

| | |
|-------|-----------------------------|
| — | CURB AND GUTTER (C&G) |
| —X— | FENCE |
| — | HANDRAIL |
| — | STORM DRAIN LINE |
| —SS— | SANITARY SEWER |
| —W— | WATER LINE |
| —G— | GAS LINE |
| —USE— | UNDERGROUND POWER LINE |
| — | OVERHEAD POWER LINE |
| —COM— | COMMUNICATION |
| —100— | TOPOGRAPHIC CONTOUR |
| — | PROPERTY LINE |
| — | CATCH BASIN (DWCB) |
| — | CATCH BASIN (SWCB) |
| — | DROP INLET (DI) |
| — | JUNCTION BOX (JB) |
| — | HEAD WALL (HW) |
| — | CURB INLET (CI) |
| — | FLARED END SECTION (FES) |
| — | OUTLET CONTROL STRUCTURE |
| — | YARD DRAIN INLET |
| — | SS MANHOLE (MH) |
| — | CLEAN OUT (CO) |
| — | GREASE TRAP (GT) |
| — | IRRIGATION CONTROL VALVE |
| — | FIRE HYDRANT (FH) |
| — | WATER VALVE (WV) |
| — | WATER METER (WM) |
| — | FIRE DEPT. CONNECTION (FDC) |
| — | WATER VALVE MARKER |
| — | TRANSFORMER BOX (TX) |
| — | AIR CONDITIONER (AC) |
| — | ELECTRIC METER (EM) |
| — | ELECTRIC UTILITY |
| — | LIGHT POLE (LP) |
| — | POWER POLE WITH LIGHT |
| — | POWER POLE (PP) |
| — | UTILITY MANHOLE (UM) |
| — | SPOTLIGHT |
| — | GAS METER (GM) |
| — | GAS VALVE (GV) |
| — | TRAFFIC SIGNAL BOX |
| — | TELEPHONE PEDESTAL |
| — | COMMUNICATION BOX |
| — | TRAFFIC SIGNAL |
| — | BOLLARD (BO) |
| — | MAIL BOX |
| — | SIGN |
| — | CROSSWALK SIGNAL |
| — | SPOT ELEVATION |
| — | CONCRETE AREA |
| — | OVERHANG AREA |
| — | RIP-RAP AREA |
| — | BRICK AREA |
| — | TREELINE |

ABBREVIATIONS

| | | | |
|-------|--------------------------------|---------|--------------------------|
| A | ARC LENGTH | IPS | IRON PIN SET (CAPPED) |
| AC | ACRE | NIF | NOW OR FORMERLY |
| AE | ACCESS EASEMENT | OTP | OPEN TOP PIPE |
| BSL | BUILDING SETBACK LINE | PB | PLAT BOOK |
| BW | BARB WIRE | PG | PAGE |
| CH | CHORD LENGTH | POB | POINT OF BEGINNING |
| CLF | CHAIN LINK FENCE | POC | POINT OF COMMENCEMENT |
| CMF | CONCRETE MONUMENT FOUND | R | RADIUS LENGTH |
| CMP | CORRUGATED METAL PIPE | R | RIGHT OF WAY |
| CONC. | CONCRETE | R/W | RIGHT OF WAY MONUMENT |
| CRIMP | CRIMP TOP PIPE | RB | REBAR |
| DB | DEED BOOK | RCP | REINFORCED CONCRETE PIPE |
| DIP | DUCTILE IRON PIPE | SDE | STORM DRAINAGE EASEMENT |
| FDC | FIRE DEPARTMENT CONNECTION | SQ. FT. | SQUARE FEET |
| FND | FOUND | SSE | SANITARY SEWER EASEMENT |
| FO | FIBER OPTIC | WPF | WOOD PRIVACY FENCE |
| HDPE | HIGH DENSITY POLYETHYLENE PIPE | YI | YARD INLET |
| IPF | IRON PIN FOUND | | |

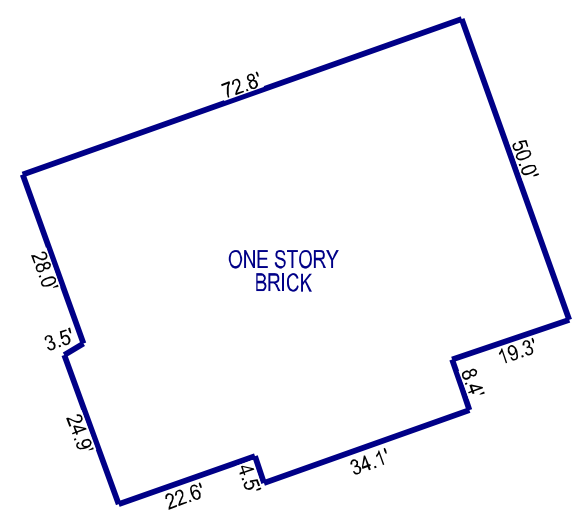
LINE TABLE

| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | N 89°02'36" W | 450.42' |
| L2 | N 20°49'21" E | 167.24' |
| L3 | N 77°07'17" E | 10.35' |
| L4 | N 76°37'17" E | 148.94' |
| L5 | S 00°57'41" W | 257.78' |
| L6 | N 76°37'17" E | 54.41' |
| L7 | S 00°30'14" W | 283.88' |
| L8 | N 85°02'35" W | 130.08' |

CURVE TABLE

| SEGMENT | ARC | RADIUS | BEARING | CHORD |
|---------|---------|---------|---------------|---------|
| C1 | 88.42' | 70.00' | N 57°28'01" E | 83.46' |
| C2 | 170.90' | 595.95' | N 85°53'52" E | 170.31' |
| C3 | 76.24' | 454.47' | N 81°25'47" E | 76.15' |

BUILDING
DIMENSION



ALTANSPS LAND TITLE & TOPOGRAPHIC SURVEY
FOR
JSJ PERIMETER, LLC, BAY POINT CAPITAL PARTNERS
II, LP & FIRST AMERICAN TITLE INSURANCE COMPANY
(84 PERIMETER CENTER EAST)
LOCATED IN
LAND LOT 347, 18TH DISTRICT
DEKALB COUNTY, GEORGIA

SHEET NO.

2/2

DRAWING# TM 19 083

TerraMark Land Surveying, Inc.

1800
Atlanta, Georgia 30066
Phone No. (770) 421-1927
Fax No. (770) 421-0552
www.TerraMark.com
Professional Land Surveying C. O. A. #LSF00810

TerraMark
Professional Land Surveying

| Project No. | Date | Revision | No. | By |
|-------------|------|----------|------|-----|
| 20190303 | | | #1 | JK |
| | | | #2 | NEC |
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| | | | #4 | NEC |
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